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November 1, 1995

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: Toll Free Service Access Codes
CC Docket No. 95-155

Dear Mr. Caton:

Please find enclosed for filing the original and eleven copies of the Organization for the Protection and Advancement of Small Telephone Companies' comments in the above-captioned proceeding.

Thank you for your assistance in this matter.

Sincerely,

Lisa M. Zaina
General Counsel

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
Toll Free Service Access Codes	)	CC Docket No. 95-155

COMMENTS OF THE ORGANIZATION FOR THE PROTECTION AND ADVANCEMENT OF SMALL TELEPHONE COMPANIES

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I. INTRODUCTION AND BACKGROUND

On October 5, 1995, the Federal Communications Commission (FCC or Commission) released the text of a Notice of Proposed Rulemaking[1] concerning the transition to and allocation of new toll free codes. The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) hereby submits its comments in response to the Commission's NPRM.

OPASTCO is a national trade association of more than 450 independently owned and operated telephone companies serving rural areas of the United States and Canada. Its members, which include both commercial companies and cooperatives, are small and

[1] In the Matter of Toll Free Service Access Codes, CC Docket No. 95-155, Notice of Proposed Rulemaking, 60 FR 53157 (October 12, 1995). (NPRM, Notice)

rural local exchange carriers (LECs) serving over 2 million customers.

OPASTCO was an active participant in the "800 Proceeding" (Docket No. 86-10) which addressed the obligations of LECs in furnishing 800 access service to interexchange carriers (IXCs). In 1992, OPASTCO and the National Telephone Cooperative Association (NTCA) each petitioned the FCC for clarification[2] of its Reconsideration Order[3] regarding certain options available to independent telephone companies (ITCs) for their particpation in the then new database system of 800 access. These petitions led to the FCC's adoption of its Order on Further Reconsideration,[4] in which the Commission made clear its commitment to providing ITCs with "maximum flexibility" in their method of participation in the 800 database system. It has been this policy of maximum flexibility that has allowed small ITCs to successfully provide

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[2]OPASTCO Petition for Clarification and/or Reconsideration filed November 14, 1992; NTCA Petition for Clarification and/or Reconsideration filed November 14, 1992.

[3]Provision of Access for 800 Service, Memorandum Opinion and Order on Reconsideration and Second Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 5421 (1991). (Reconsideration Order)

[4]Provision of Access for 800 Service, Memorandum Opinion and Order on Further Reconsideration, 8 FCC Rcd 1038 (1993). (Order on Further Reconsideration)

800 database access service through a variety of methods since the industry converted to the database system in 1993. OPASTCO believes that the FCC's maximum flexibility policy continues to be essential to ensure small and rural LECs' smooth transition to and efficient provision of database access service for future toll free codes.

II. SMALL AND RURAL LECS MUST BE PERMITTED TO USE ACCESS TANDEMS FOR THE ROUTING OF TOLL FREE CALLS

In the NPRM, the Commission's proposal concerning the use of different routing schemes for toll free calls is unclear.[5] Does the FCC simply propose that each LEC must route all of its toll free traffic the same way, whether through end offices or an access tandem? Or, is the Commission proposing a far more onerous requirement that all LECs route their toll free traffic through end offices, eliminating the use of access tandems entirely? If the proposal is the former, then OPASTCO agrees with the Commission that each LEC should be consistent in their handling of all toll free calls. As the Commission states, allowing a LEC to use a different routing scheme for 888 than it does for 800 calls would be inefficient and unnecessarily costly

[5]Notice at para. 30.

to interconnecting carriers.[6] OPASTCO believes that, after a reasonable transition period, LECs who have routed 800 calls from their end offices should be expected to route all subsequent toll free codes through their end offices if they choose to continue to handle these calls in this manner. However, OPASTCO would strongly oppose any proposal that requires all LECs to query the 800 database from their end offices, eliminating the option of routing toll free calls through access tandems to perform the database "dip."

Access tandems are an essential element in many rural LEC networks. In fact, the majority of small ITC end offices are served by Regional Bell Operating Company (RBOC) and General Telephone (GTE) access tandems. These tandems achieve network efficiencies and economies by concentrating low volume rural telephone traffic. A significant benefit of such efficient concentration is the provision of current and future advanced communications services at reasonable rates.

Even in areas where an RBOC or GTE does not supply a tandem, rural LECs have banded together to take advantage of the economies of scale that these tandems provide. For example, in

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[6]Ibid.

Minnesota and Iowa, groups of rural LECs formed Minnesota Equal Access Network Services (MEANS) and Iowa Network Services (INS). These organizations provide network capabilities through jointly owned access tandems that the individual telephone companies would not have had the customer base to support. The creation of organizations such as MEANS and INS are strong evidence that small and rural LECs will find creative solutions to provide advanced telecommunications services to their customers at affordable rates.

An FCC mandate prohibiting the use of access tandems for the provision of toll free access service would not only produce inefficiencies, it would also create a financial hardship for many small LECs. This is because the routing of toll free calls using the 800 database requires switches with signaling system 7 (SS7) technology. And while small LECs have been upgrading their networks at a rapid pace, there are still many that have not yet found it economically efficient to install SS7 in their end offices.

According to a 1993 study conducted by the National Exchange Carrier Association (NECA), 15 percent of NECA's member company end office switches at that time had SS7 functionality. These end offices serve over 40 percent of NECA member company

subscribers.[7] Certainly, this is a notable accomplishment for these companies and undoubtedly, more small LECs have installed SS7 over the past two years. However, for those companies that have not yet deployed SS7 in their end offices, conversion would require a multi-generic level upgrade in software and, in some cases, a replacement of hardware, the cost of which would be substantial. This is due to the proprietary nature and bundled properties of a switch, wherein each switch manufacturer has its own unique and exclusive system. Off-the-shelf software upgrades do not exist. Once a telephone company commits to a certain brand of switch, it is limited to working with the original switch manufacturer for the purchase of any necessary upgrades.

In addition, in many rural areas, low volume telephone traffic and long distances have led IXCs to use common trunks to connect to LECs' end offices. Regardless of whether or not end offices are equipped with SS7, if IXCs choose not to trunk directly, toll free calls have to pass through an access tandem. In service areas with this network configuration, any upgrade

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[7] "Building the Telecommunications Infrastructure in Rural America, Achievements Toward the Promise," National Exchange Carrier Association, November 1993.

made in compliance with an end office routing requirement would amount to a stranded investment.

Small and rural LECs are committed to providing their customers with access to all current and future toll free service codes. As the rural specialists in their field, these LECs have the experience and expertise to devise the best way to provide this service. However, small and rural LECs will continue to require the flexibility to determine the optimal network configuration for providing access in their individual service areas. A one-size-fits-all requirement would only result in inefficient solutions, to the detriment of the LECs, interconnecting carriers, and subscribers.

III. A CALL SET-UP TIME REQUIREMENT CONTINUES TO BE INAPPROPRIATE FOR SMALL AND RURAL LECS

In its Order on Further Reconsideration, the FCC rightly noted that "ITCs employ a wide variety of switches and network architectures..." and that "...given the differences among ITC networks, any single [access time] standard would be arbitrary and inappropriate as to at least some ITCs, and separate standards for each ITC would clearly be impracticable."[8] This wide variety of network architectures, including those that

[8] 8 FCC Rcd 1040.

utilize intermediate and access tandems, continues to exist today among small and rural LECs. That, coupled with fewer financial resources, significantly limits the call set-up times that these LECs can reasonably achieve. In addition, large LECs can average the access times of its remote rural exchanges to meet the Commission's mean access time standard. The small and rural LEC, on the other hand, has no urban exchanges to average into its overall mean access time. Therefore, a call set-up time requirement continues to be inappropriate for ITCs and should not be imposed.

IV. A DEADLINE BY WHICH ALL NETWORK SWITCHES MUST BE CAPABLE OF SUPPORTING ALL RESERVED TOLL FREE CODES IS ARBITRARY AND UNNECESSARY. THE COMMISSION SHOULD INSTEAD PROVIDE INDUSTRY WITH 12 TO 18 MONTHS NOTICE PRIOR TO A NEW CODE'S IMPLEMENTATION

OPASTCO shares the Commission's concern over the industry's readiness for future transitions to new toll free codes but believes that more reasonable mechanisms can be implemented than those the Commission has proposed. In the NPRM, the FCC proposes that all network switches have the software needed to support all reserved toll free codes by February 1997.[9] OPASTCO believes that this deadline is highly arbitrary. There is no reason why a

[9]Notice at para. 29.

small LEC should be required to incur the expense of modifying all of its switches by a future date to support codes that will not be activated for many years to come. This would amount to an idle investment on which no return is earned. The financial resources that a small LEC exhausts to comply with such a requirement could be more effectively targeted towards a service or upgrade that would better serve its customers' needs.

To ensure a smooth transition to future toll free codes without unnecessarily burdening carriers, OPASTCO recommends that a trigger be identified that alerts the industry 12 to 18 months prior to the exhaustion of the most recent toll free code and required implementation of the next. The Commission's proposal to mandate implementation of a new toll free code on six months' notice[10] is not adequate for small LECs to plan for and deploy the necessary network modifications. Small ITCs tend to do much of their network planning in terms of budget year intervals. Twelve to eighteen months notice prior to implementing a new code would provide the industry, and small LECs in particular, with ample time to prepare financially and technically. Moreover, carriers would be able to make their modifications when the need

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[10]Notice at para. 28.

for implementing a new code was imminent, as opposed to an arbitrary date with no correlation to the exhaust of toll free codes.

V. THE MARKET SHOULD DECIDE THE EXTENT TO WHICH PINS ARE USED IN CONJUNCTION WITH THE USE OF TOLL FREE NUMBERS

OPASTCO is concerned that the use of personal identification numbers (PINs) in conjunction with toll free numbers may discourage toll free number portability. Number portability is the greatest advantage to the 800 database system over the old NXX system of toll free access. It permits a toll free service subscriber to use any carrier(s) with any toll free number, and to change carriers without changing its toll free number.[11] As the Commission has recognized, the use of PINs does not permit portability in the same manner as toll free numbers without PINs,[12] essentially regressing back to the days of the NXX system. This is not to say that PINs used in conjunction with toll free numbers may not be beneficial in some ways. OPASTCO simply believes that the Commission should not involve itself in the promotion or encouragement of PINs given their negative

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[11]6 FCC Rcd 5422.

[12]Notice at para. 21.

impact on portability. Instead, the market should decide the extent to which PINS are used, not the FCC.

VI. CONCLUSION

In its Order on Further Reconsideration in the "800 Proceeding" the Commission stated that "...small ITCs may provide data base access in a variety of ways, and that we seek to afford these IXCs [sic] maximum flexibility in planning their participation in a manner that best serves their needs and financial capabilities."[13] OPASTCO urges the Commission to maintain this policy in its rules for transitioning to new toll free codes. Small and rural LECs are committed to providing a modern communications infrastructure which, of course, includes access to all available toll free numbers.

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[13] 8 FCC Rcd 1040.

To accomplish this, these companies must be permitted to utilize their limited resources and investments in the most efficient way possible. By adopting the recommendations discussed above, the Commission will ensure that small and rural LECs can continue providing their subscribers and interconnecting customers with seamless database access for all current and future toll free codes.

Respectfully Submitted,

THE ORGANIZATION FOR THE PROTECTION AND ADVANCEMENT OF SMALL TELEPHONE COMPANIES

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